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*Attorneys for Defendants The Simply Good  
Foods Co. and Only What You Need, Inc.*

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

EMMETT ENRIQUES, individually and  
on behalf of all others similarly situated,

Plaintiff,

v.

ONLY WHAT YOU NEED, INC., a  
Delaware Corporation; THE SIMPLY  
GOOD FOODS COMPANY, a Delaware  
Corporation; AND DOES 1 THROUGH  
70, INCLUSIVE,

Defendants.

Case No. 2:24-cv-08969-GW-BFM

**DECLARATION OF MATTHEW  
BORDEN IN SUPPORT OF  
DEFENDANTS THE SIMPLY  
GOOD FOODS COMPANY AND  
ONLY WHAT YOU NEED,  
INC.'S PARTIAL MOTION TO  
DISMISS PLAINTIFF'S FIRST  
AMENDED COMPLAINT**

**Date:** September 25, 2025

**Time:** 8:30 a.m.

**Judge:** Hon. George H. Wu

1 I, Matthew Borden, declare:

2 1. I am licensed to practice law before this Court and am counsel of record  
3 for Defendants The Simply Good Foods Company and Only What You Need, Inc.  
4 (“OWYN”). I make this declaration based on personal knowledge, and if called upon  
5 to testify, I could and would testify competently thereto.

6 2. On August 8, 2025, my colleague Chelsea Tirgardoorn met and  
7 conferred with Plaintiff’s counsel about this motion as required by L.R. 7-3.  
8 Ms. Tirgardoorn explained that Plaintiff lacks standing and fails to state a claim.  
9 Plaintiff’s counsel disagreed and declined to withdraw the allegations in the FAC.

10 3. Attached as **Exhibit 1** are true and correct excerpts from the transcript  
11 for the January 28, 2025, deposition of Plaintiff Emmet Enriques.

12 I declare under penalty of perjury under the laws of the United States that the  
13 foregoing is true and correct.

14  
15 Dated: August 18, 2025

/s/ Matthew Borden  
Matthew Borden, Esq.

# EXHIBIT 1

# Deposition Transcript

Case Number: 2:24-cv-08969-GW-BFM

Date: January 28, 2025

In the matter of:

EMMETT ENRIQUES v ONLY WHAT YOU NEED, INC., et al.

Emmett Enriquez - CONFIDENTIAL

ATTORNEYS' EYES ONLY

**CERTIFIED  
COPY**

Reported by:  
RONNY ZAVOSKY

Steno  
Official Reporters

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NV: Firm #108F



EMMETT ENRIQUES - CONFIDENTIAL  
JANUARY 28, 2025

ATTORNEYS' EYES ONLY

JOB NO. 1392594

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Case No. 2:24-cv-0896  
9-GW-BFM

EMMETT ENRIQUES, individually and  
on behalf of all other situated,

Plaintiffs,

vs.

ONLY WHAT YOU NEED, INC., a  
Delaware Corporation; THE SIMPLE  
GOOD FOODS COMPANY, a Delaware  
Corporation; AND DOES 1 THROUGH 70,  
INCLUSIVE,

Defendants.

CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF

EMMETT ENRIQUES

LOS ANGELES, CALIFORNIA

TUESDAY, JANUARY 28, 2025

REPORTED BY:  
RONNY ZAVOSKY  
CSR NO. 12359  
JOB NO. 1392594

EMMETT ENRIQUES - CONFIDENTIAL  
JANUARY 28, 2025

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1                   The deposition of EMMETT ENRIQUES was taken on  
2   behalf of the Defendants at 515 South Flower Street,  
3   18th Floor, Los Angeles, California, commencing at  
4   9:49 A.M. on Tuesday, January 28th, 2025, before  
5   Ronny Zavosky, CSR No. 12359.

6  
7  
8  
9                   A P P E A R A N C E S

10  
11   FOR THE PLAINTIFF:

12  
13   REESE, LLP

14                   BY:   GEORGE V. GRANADE II, ESQ.

15                   8484 Wilshire Boulevard, Suite 515

16                   Beverly Hills, California 90211

17                   (310) 393-0070

18                   ggranade@reesellp.com  
19  
20  
21  
22  
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25

EMMETT ENRIQUES - CONFIDENTIAL  
JANUARY 28, 2025

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1 A P P E A R A N C E S (Continued):

2

3 FOR THE DEFENDANTS:

4

5 BRAUNHAGEY & BORDEN LLP

6 BY: David H. KWASNIEWSKI, ESQ.

7 747 Front Street, 4th Floor

8 San Francisco, California 94111

9 (415) 599-0210

10 kwasniewski@braunhagey.com

11

12

13

14 ALSO PRESENT:

15

16 STEVE PETERSEN, VIDEOGRAPHER

17

18

19

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23

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25

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09:55:30 1 A Inside, don't -- don't remember. I drank it  
09:55:33 2 so I don't remember seeing the color.  
09:55:35 3 Q Did you drink it right away, or did you sort  
09:55:37 4 of wait a bit?  
09:55:39 5 A After I purchased?  
09:55:41 6 Q Yeah.  
09:55:43 7 A Wait a bit.  
09:55:45 8 Q Do you remember what store you bought it from?  
09:55:48 9 A Yes. Target, as well as secondary purchase at  
09:55:53 10 Whole Foods.  
09:55:59 11 Q Well, let's focus still on just the very first  
09:56:02 12 time you bought it.  
09:56:02 13 Was that at Target or Whole Foods?  
09:56:04 14 A Target.  
09:56:05 15 Q Okay. Which Target?  
09:56:07 16 A I believe it was West Hollywood Target.  
09:56:16 17 Q And you mentioned February -- this was in  
09:56:19 18 February of last year.  
09:56:20 19 So that's February of 2024?  
09:56:22 20 A Correct.  
09:56:24 21 Q And you bought just one four-pack at that  
09:56:28 22 time?  
09:56:28 23 A Yes. At the time.  
09:56:32 24 Q And you said -- you mentioned the secondary  
09:56:35 25 purchase at Whole Foods.



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09:56:36 1 How many times could you estimate that you  
09:56:38 2 purchased QWYN shakes?  
09:56:40 3 A I've purchased OWYN shakes -- two to three  
09:56:45 4 times. Chocolate first, chocolate and vanilla, and then  
09:56:50 5 another chocolate again. I tried the chocolate. Tried  
09:56:53 6 the vanilla; didn't like the vanilla as much, and then  
09:56:56 7 purchased the chocolate the next time at Whole Foods.  
09:57:01 8 Q So the second time you purchased vanilla was  
09:57:03 9 that at Target or Whole Foods?  
09:57:05 10 A Target.  
09:57:06 11 Q And the last time you purchased chocolate,  
09:57:07 12 that was at Whole Foods?  
09:57:10 13 A Correct.  
09:57:10 14 Q And which Whole Foods was that?  
09:57:11 15 A West Hollywood.  
09:57:18 16 Q And when was the last time you bought an OWYN  
09:57:20 17 shake?  
09:57:23 18 A March, last year.  
09:57:28 19 Q That's 2024; right?  
09:57:29 20 A Correct.  
09:57:33 21 Q You haven't purchased any OWYN shakes since  
09:57:36 22 then?  
09:57:36 23 A No.  
09:57:37 24 Q Why did you stop?  
09:57:39 25 A One, because of the testing results that I

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10:40:37 1 March of 2024?

10:40:39 2 MR. GRANADE: Objection.

10:40:41 3 THE WITNESS: Don't -- don't recall. Yes.

10:40:43 4 Don't recall.

10:41:10 5 BY MR. KWASNIEWSKI:

10:41:10 6 Q You said you reviewed the complaint before

10:41:13 7 today's deposition.

10:41:14 8 Did you also review it before it was filed?

10:41:19 9 A No. Not that I recall. No.

10:41:27 10 Q So the first time you saw it was when?

10:41:32 11 A First time I read it? Maybe a month or two  
10:41:37 12 ago.

10:41:50 13 Q Did you agree with what was stated in the  
10:41:53 14 complaint when you read it?

10:41:54 15 A Yes.

10:42:55 16 Q The test results that are referenced in the  
10:42:57 17 complaint, do you remember when they were performed?

10:43:02 18 A I have a general idea that they were performed  
10:43:06 19 throughout a larger time frame -- time range of -- I  
10:43:11 20 would say, to the best of my knowledge, last year -- the  
10:43:15 21 year prior. And the year prior. Let me just add that.

10:43:34 22 Q Do you know if any test results were performed  
10:43:37 23 on products purchased between -- OWYN shakes purchased  
10:43:40 24 between February and March of 2024?

10:43:42 25 MR. GRANADE: Object to the form of the

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11:22:23 1 Did you review any of the letters that your  
11:22:25 2 lawyers sent prior to filing the complaint to OWYN?

11:22:30 3 A I do remember reading them, yes.

11:22:32 4 Q When did you read them?

11:22:35 5 A Around the same time that I read the  
11:22:38 6 complaint.

11:22:42 7 Q And just so the record is clear, around what  
11:22:44 8 time frame was that?

11:22:45 9 A I would say one or two months ago; however,  
11:22:49 10 that's just reading them myself. I had prior knowledge  
11:22:52 11 of them since I've been in contact with my lawyers from  
11:22:56 12 the past year. So I did have an understanding of what  
11:22:58 13 it was.

11:23:49 14 Q So the complaint, as you may recall, discusses  
11:23:52 15 four flavors of shakes. The chocolate, vanilla --

11:24:00 16 A No Nut Peanut Butter.

11:24:01 17 Q Right.

11:24:01 18 A Sea Salt, Caramel.

11:24:03 19 Q Great. The complaint says in paragraph 5 that  
11:24:09 20 you purchased the shakes at retail locations in  
11:24:13 21 California, including Los Angeles County, but you never  
11:24:16 22 purchased the No Nut Butter Cup; right?

11:24:19 23 A No.

11:24:19 24 Q And you never purchased the Sea Salt Caramel;  
11:24:22 25 right?

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11:24:23 1

A No.

11:24:24 2

11:24:25 3

11:24:27 4

Q So, in fact, that allegation in the complaint that you purchased all those different flavors, that's not true, is it?

11:24:28 5

MR. GRANADE: Objection.

11:24:30 6

11:24:32 7

THE WITNESS: I just purchased two of the flavors.

11:24:32 8

BY MR. KWASNIEWSKI:

11:25:11 9

11:25:13 10

11:25:15 11

11:25:21 12

11:25:25 13

Q Earlier we talked about the types of relief that you were seeking in this lawsuit. We discussed monetary relief. You also mentioned injunctive relief. What specific injunctive relief are you seeking with this lawsuit?

11:25:26 14

MR. GRANADE: Objection.

11:25:28 15

You may answer.

11:25:30 16

11:25:32 17

11:25:38 18

11:25:45 19

11:25:49 20

11:25:55 21

11:25:58 22

THE WITNESS: Let me first clarify that I am in no way an expert in law, in business, and labeling products. However, when I say injunctive relief, my -- the main meaning behind that, it means to be -- the labels re- -- how do I put this? I'd like to see the labels not mislabeled and to be changed to reflect what is actually in the product.

11:25:59 23

BY MR. KWASNIEWSKI:

11:26:12 24

11:26:19 25

Q So just so that I understand, you are not asking for the formula of the product to be changed?

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11:34:51 1 Q What if some batches of OWYN's shakes were --  
11:34:56 2 had all the protein advertised and just some batches  
11:34:59 3 didn't? You would agree with me if that were the case,  
11:35:03 4 then people who bought the batches that had all the  
11:35:06 5 protein wouldn't have suffered an injury; right?

11:35:09 6 MR. GRANADE: Objection.

11:35:12 7 THE WITNESS: I would say -- so you are saying  
11:35:16 8 if they had drinking -- if they had "drunken" the  
11:35:19 9 product that was properly labeled -- that was batched  
11:35:26 10 properly and labeled properly, that they wouldn't have  
11:35:28 11 suffered injury, I would say yes.

11:35:30 12 BY MR. KWASNIEWSKI:

11:35:41 13 Q Do you know which specific batches of OWYN's  
11:35:43 14 shakes were not properly labeled?

11:35:47 15 A Personally? No.

11:36:15 16 Q Switching gears a little bit. I wanted to  
11:36:17 17 talk to you about how you came to retain your lawyers in  
11:36:22 18 this case.

11:36:22 19 How did you come to meet them?

11:36:25 20 A I first met Alec when he was in law school  
11:36:31 21 years ago. And I only met George recently. Within this  
11:36:39 22 last month or two.

11:36:46 23 Q How did you come to hire Alec in connection  
11:36:48 24 with this case?

11:36:49 25 A Alec actually worked for -- I wouldn't say

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11:36:53 1 worked for me. He was an independent contractor for me  
11:36:56 2 in the past, so I had a good understanding of what he  
11:36:59 3 did. And he -- when he left working with me, I --  
11:37:04 4 that's when I had a good understanding of what he did,  
11:37:06 5 so that's how I kind of came into it and understood  
11:37:10 6 that.

11:37:22 7 Q You said earlier that you personally didn't  
11:37:24 8 test any of OWYN's shakes.

11:37:26 9 Do you know who did?

11:37:33 10 A I would make the assumption -- no. As in who  
11:37:39 11 sent it in? No.

11:37:50 12 Q Prior to you hiring Alec to represent you in  
11:37:54 13 this case, did Alec approach you with the test results?

11:37:58 14 A No.

11:37:59 15 Q How did you hear about the test results?

11:38:02 16 A I heard about the test results through Alec  
11:38:05 17 because I was at his place and saw that he had the  
11:38:11 18 protein shakes at his place, and me knowing, through  
11:38:14 19 prior work through Alec, what he does for a career,  
11:38:18 20 living, had asked him about it because I was drinking  
11:38:22 21 the protein shakes around the same time.

11:38:26 22 Q And at that time, was Alec representing you as  
11:38:29 23 an attorney?

11:38:29 24 A No.

11:38:33 25 Q So what specifically did you ask Alec about

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11:38:35 1 the protein shakes?

11:38:37 2 A I asked him -- I asked him whether or not

11:38:39 3 the -- I asked -- first, I asked his thoughts and I

11:38:43 4 can't recall the exact conversation. But I asked what

11:38:46 5 his relationship was with the protein shakes and what

11:38:48 6 was going on, and that's when I saw the nutrition.

11:38:55 7 Q When you say "nutrition," you are talking

11:38:56 8 about the test results?

11:38:57 9 A Yes.

11:39:02 10 Q After you saw the test results, what did you

11:39:04 11 discuss?

11:39:07 12 MR. GRANADE: And I just want to caution my

11:39:09 13 client, at some point my understanding is the

11:39:10 14 attorney-client privilege does attach here because, you

11:39:14 15 know, they started talking about Emmett wanting to

11:39:18 16 retain Alec. So I take it that you are not asking about

11:39:22 17 those conversations once that had occurred.

11:39:24 18 BY MR. KWASNIEWSKI:

11:39:24 19 Q Yeah. I'm only asking about your

11:39:27 20 conversations prior to retaining Alec as your lawyer.

11:39:34 21 So you saw the test results.

11:39:35 22 Did you have any other conversations with Alec

11:39:37 23 before you decided to hire him as your lawyer?

11:39:40 24 A I would -- I would say no. I -- I mean, I

11:39:43 25 took interest for personal reasons. I've taken a lot

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11:39:47 1 law classes before. You know. It's interesting to me.

11:39:51 2 Labeling, you know, like it's more of a  
11:39:54 3 personal thing. So after this -- that conversation that  
11:39:58 4 was it.

11:40:01 5 Q And you said you've taken on classes before?

11:40:05 6 A I've taken law classes before.

11:40:07 7 Q You've taken law classes.

11:40:09 8 Have you ever served as a plaintiff in another  
11:40:11 9 lawsuit?

11:40:13 10 A No.

11:40:13 11 THE VIDEOGRAPHER: It's still attached.

11:40:16 12 THE WITNESS: Oh, okay.

11:40:18 13 BY MR. KWASNIEWSKI:

11:40:18 14 Q Have you ever been a party to a -- a prior --  
11:40:20 15 a lawsuit before?

11:40:21 16 A No.

11:40:37 17 Q We've touched on this briefly, but you  
11:40:40 18 understand that in this case you are representing a  
11:40:42 19 class of consumers across the state and the entire  
11:40:46 20 country; right?

11:40:47 21 A Correct.

11:40:48 22 Q And you understand that as a class  
11:40:49 23 representative, you have duties to the other members of  
11:40:52 24 the class that aren't present here today; right?

11:40:55 25 A Correct.



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11:43:38 1 other class members to not receive any money if you and  
11:43:41 2 your lawyers receive money; right?

11:43:43 3 A I -- I think that the other class members  
11:43:45 4 should receive money. Yes.

11:44:40 5 MR. KWASNIEWSKI: I'm going to show you what  
11:44:41 6 we'll mark for identification is Exhibit 4.

11:44:48 7 (Exhibit 4 was marked for identification.)

11:45:29 8 BY MR. KWASNIEWSKI:

11:45:30 9 Q Does Exhibit 4 look like the label on the  
11:45:32 10 chocolate protein shake that you purchased?

11:45:35 11 A No.

11:45:36 12 Q What's different?

11:45:38 13 A Serving side -- size; food ounces; type of  
11:45:42 14 packaging; shape of packaging. That's as far as I can  
11:45:50 15 go.

11:46:15 16 Q So you did not purchase the Elite Pro  
11:46:17 17 Chocolate in the 355-milliliter configuration?

11:46:20 18 A I believe -- no. I did not.

11:46:23 19 Q Which OWYN chocolate shake did you purchase?

11:46:28 20 A The -- it's either 335 or 330. Off the top of  
11:46:33 21 my head, I can't remember, but it's not -- it's not this  
11:46:36 22 bottle shape.

11:47:03 23 Q And same question for the vanilla shake.

11:47:05 24 Did you buy the 355-milliliter or 335?

11:47:09 25 A Same as the chocolate.

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DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, declare under penalty of perjury that I have read the entire foregoing transcript of my deposition or the same has been read to me, and the same is true and accurate, save and except for changes, corrections, additions or deletions indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_, \_\_\_\_\_.  
(City) (State)

\_\_\_\_\_  
EMMETT ENRIQUES

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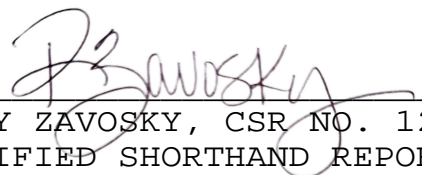
1 I, RONNY ZAVOSKY, CSR No. 12359, certify that  
2 the foregoing proceedings were taken before me at the  
3 time and place therein set forth, at which time the  
4 witness was duly sworn and that the transcript is the  
5 true record of the testimony so given;

6  
7 Witness review, correction and signature  
8 (X) shall be per venue code ( ) was requested  
9 ( ) was not requested ( ) was waived  
10 ( ) not handled by the deposition officer due to  
11 party stipulation  
12

13 The dismantling, unsealing, or unbinding of  
14 the original transcript will render the reporter's  
15 certificate null and void.

16 I further certify that I am not financially  
17 interested in the action, and I am not a relative or  
18 employee of any attorney of the parties, nor of any of  
19 the parties.

20 Dated this 7th day of February, 2025.  
21

22  
23   
24 RONNY ZAVOSKY, CSR NO. 12359  
25 CERTIFIED SHORTHAND REPORTER